U.S. Senate Republican Policy Committee

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Legislative Notice

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S. 1429 — The Taxpayer Refund Act of 1999 (Revenue Reconciliation Legislation)

Calendar No. 227

Reported from the Committee on Finance on July 21, 1999, by a vote of 13 to 7. Report No. 106-120.

NOTEWORTHY

- The Majority Leader intends to begin consideration of the Taxpayer Refund Act of 1999 (TRA 1999) on Wednesday, July 28. The Finance Committee is the only committee to receive reconciliation instructions under the FY 2000 Budget Resolution (H. Con. Res. 68, passed April 15, 1999). Furthermore, the Finance Committee was directed only to reduce revenues by $142 billion over the five-year period 2000-04 and $778 billion over the ten-year period 2000-09.

- Pursuant to the budget resolution's instructions, if the Congressional Budget Office (CBO) estimated an on-budget surplus for FY 2000 in its mandated July 1 report to Congress, the reconciled amount of revenue reduction could be increased by the amount of the on-budget surplus for FY 2000. CBO has estimated a $14 billion on-budget surplus to exist for FY 2000. Consequently, TRA 1999 makes a net revenue reduction of $4.1 billion in FY 2000, $155.5 billion from 2000-04, and $791.8 billion from 2000-09.

- TRA 1999 is the largest middle-class tax relief since Ronald Reagan's presidency. It is larger than the tax relief passed in 1997 — $85 billion over five years and $250 billion over ten years. However, it is still smaller than President Clinton's record $241 billion tax increase of 1993. In fact, TRA 1999 and the 1997 tax relief *combined* manage to exactly offset Clinton's 1993 hike.

- Because TRA 1999 is a reconciliation bill, it is afforded expedited treatment under the Budget Act (see Floor Procedure at the end of this document).

- The House passed their version of tax reduction reconciliation legislation on July 22, 1999, by a vote of 223-208.

HIGHLIGHTS

Broad-based and family tax relief comprise two-thirds of TRA 1999's tax relief.

In 2004, 60 percent of TRA 1999's tax relief will go to those making $75,000 or less. Every taxpayer between the $10,000 and $75,000 income categories will receive above-average tax relief under the legislation — those earning above $100,000 will receive tax relief that is below TRA 1999's average.

Over 1999-2009, TRA 1999 provides tax relief in 12 major areas (described in greater detail below): (1) Broad-based tax relief — $297.5 billion; (2) Family tax relief — $221.7 billion; (3) Retirement savings incentives — $90.3 billion; (4) Education incentives — $12.2 billion; (5) Health care tax reductions — $52.2 billion; (6) Small business tax relief — $5.5 billion; (7) Death and gift tax relief of $63.1 billion; (8) Charitable and tax-exempt relief — $8.2 billion; (9) International tax reductions — $15.7 billion; (10) Housing and real estate relief — $5.3 billion; (11) Extension of certain expiring or expired tax provisions — $23.2 billion; and (12) Miscellaneous provisions — $5.6 billion. In addition, TRA 1999 also includes $9 billion in revenue increases.

BILL PROVISIONS

Specific Provisions in Major Tax Relief Areas

Broad-based tax relief: $297.5 billion/1999-2009.

The current 15-percent tax bracket will be reduced to 14 percent in 2001 and thereafter — in 1999, the 15-percent rate applies to taxable income of up to $43,050 for joint returns, $25,750 for singles, and $34,550 for heads of households. Relief: $216.1 billion — 1999-2009.

The new 14-percent tax bracket will also be increased by $2,000 (single) and $4,000 (joint) beginning in 2005 and $2,500 (single) and $5,000 (joint) beginning in 2007. Relief: $81.5 billion — 1999-2009.

Family tax relief: $221.7 billion/1999-2009.

Marriage Penalty Relief: Currently, the tax code can allow a married couple to be taxed at a higher rate than if they were two unmarried individuals. TRA 1999 addresses this by allowing married individuals filing joint returns to file single returns on a combined form (both are required to itemize or take the standard deduction) beginning in 2005. Marriage penalty relief is also extended to the earned income credit by increasing the starting point for marrieds filing joint returns by $2,000 in 2005 (indexed for inflation afterwards). Relief: $117.7 billion — 1999-2009.

Dependent Care Credit Expansion: The credit percentage of qualified expenses for taxpayers with Adjusted Gross Income (AGI) under $30,000 is increased to 50 percent (phased down in 1 percent increments for each $1,000 in AGI over $30,000 — not falling below 20 percent) and maximum expense limits are indexed for inflation. Relief: $6.2 billion — 1999-2009.

Family AMT Relief: The Alternative Minimum Tax (AMT) was designed to guarantee that all individuals pay some income tax. However, it has resulted in unintended consequences. The bill provides that the AMT does not decrease or eliminate taxpayers' nonrefundable personal credits (e.g., child tax credit, HOPE and Lifetime Earning credits, etc.) The bill also allows taxpayers to apply personal exemptions against the AMT to prevent middle-income families from being subject to the AMT. Relief: $96.1 billion — 1999-2009.

Retirement savings incentives: $69.5 billion/ 1999-2009.

IRA Contribution Increase: Beginning in 2001, TRA 1999 would increase the annual contribution limit for deductible, nondeductible, and Roth IRAs in $1,000 increments until reaching a total of $5,000 annual contribution and index for inflation. Relief: $40.4 billion — 1999-2009.

IRA Eligibility Increase: The AGI income limitation for deductible IRAs would increase $2,000/$4,000 for single/joint in 2008, $2,500/$5,000 for single/joint in 2009 and 2010, and index for inflation following 2010. Relief: $1 billion — 1999-2009.

Roth IRA AGI Limitation Increase: The AGI limitation for Roth IRA contributions would be eliminated entirely starting in 2001, and the income limit for converting from an ordinary IRA to a Roth IRA would increase to $1 million starting in 2003. Relief: $11 billion — 1999-2009.

Additional Contributions for Near Retirees: Anyone over age 50 will be able to make additional contributions to their IRA, 401(k), 403(b), 457, or SIMPLE Plan. This additional amount starts at 10 percent of the plan contribution limit and increases in 10 percent increments to 50 percent of the plan contribution limit in 2005. Relief: $3.3 billion — 1999-2009.

401(k) and 403(b) Plan Increase: Beginning in 2001, the limits for 401(k) and 403(b) plans would increase from $10,000 in annual $1,000 increments until reaching $15,000. Similar increases would apply to 457 plans and SIMPLE plans for small businesses. Relief: $6.4 billion — 1999-2009.

Education incentives: $12.2 billion/1999-2009.

Student Loan Interest Deduction: The bill increases the eligible income limits by $10,000 and allows marrieds filing a joint return to have twice the income of a single. In addition, the 60-month limitation for student loan interest deductibility is also repealed. Relief: $3 billion — 1999-2009.

Prepaid savings plans: State-sponsored plans would exclude from income distributions made for education purposes beginning in 2000. Private plans would be allowed tax deferral on income beginning in 2000 and exclusion from income beginning in 2004. Relief: $1.2 billion — 1999-2009.

Employer Assistance: The bill permanently extends employer-provided assistance for undergraduate courses and adds an exclusion for graduate courses. Relief: $6.9 billion — 1999-2009.

Health care tax reductions: $52.2 billion/1999-2009.

Health Insurance Deductibility: The bill adds an above-the-line deduction health insurance costs for which the taxpayer pays at least 50 percent of the premium as follows: 25 percent in 2001-2003, 50 percent in 2004-2005, and 100 percent in 2006 and after. Relief: $38.1 billion — 1999-2009.

Long-term Care: The bill adds an above-the-line deduction for long-term care insurance costs for which the taxpayer pays at least 50 percent of the premium as follows: 25 percent in 2001-2003, 50 percent in 2004-2005, and 100 percent in 2006 and after. Long-term care is also allowed as a permissible expense in employer flexible spending accounts (FSAs). Relief: $10.6 billion — 1999-2009.

Small business tax relief: $6.4 billion

Self-employed Health Insurance Deductibility: Self-employed individuals are allowed immediate full deductibility beginning in 2000. Relief: $2.9 billion — 1999-2009.

Increased Section 179 Expensing: Effective beginning in 2000, this will increase to $30,000. Relief: $2.5 billion — 1999-2009.

International tax reform: $16.5 billion

International Interest Expensing: Allocation of interest would be allowed on a worldwide basis. Relief: $12.7 billion — 1999-2009. Also, the 90-percent AMT foreign tax credit limitation would be repealed. Relief: $2 billion — 1999-2009.

Death (estate) and gift tax relief: $62.6 billion

Reduce the Death Tax: The bill repeals rates in excess of 50 percent and the 5 percent "bubble" beginning in 2001. In 2004, the unified credit is changed into a true exemption. Also, in 2007, to provide the benefits of the lower rates, the $1 million exemption is increased to $1.5 million. Relief: $58.6 billion — 1999-2009.

Increased Gift Exclusion: The gift exclusion is increased incrementally from the current $10,000 to $20,000 in 2006 and thereafter. Relief: $3.8 billion — 1999-2009.

Extension of certain expiring or expired tax provisions: $38.3 billion

TRA 1999 would extend the research (R&D) credit permanently. In addition, it would extend the exception from Subpart F for active financing income through the end of 2004; permit a suspension of 100-percent net income limitation for marginal properties through the end of 2004; extend Section 45 of the Internal Revenue Code for wind and closed-loop biomass; and extend the work opportunity tax credit and welfare-to-work tax credits through June 30, 2004.

Amendments Offered in Committee

Almost 90 amendments had been prepared for the Finance Committee markup; however, only a small number were actually offered. Below are described the major amendments that were considered.

Accepted amendments

- Roth: Manager's amendment comprising substantive and technical changes.
- Hatch: Permanent extension of the R&E tax credit.
- Grassley: Expanding Section 45 to include open-loop biomass to allow forest-resource (not including old-growth timber).
- Conrad: Allowing leasehold improvements to be depreciated over 15 years rather than the current 39 years.
- Mack: Extending by one year D.C.'s first-time home buyer tax credit and expanding the zero-capital gains areas to include all of D.C.
- Murkowski: Exempting seaplanes from the air passenger ticket tax for six years.
- Nickles: Seven-year cost recovery for natural gas gathering lines. Approved on voice vote.

Defeated Amendments

- Democrat Alternative: $290 billion substitute package. Defeated 9-11.

- Nickles: Expansion of the 15-percent tax bracket (thereby reducing the number of people and the amount of income subject to the 28-percent marginal income tax bracket). Defeated 8-12.

- Gramm: Ten-percent across-the-board tax cut and elimination of the marriage penalty and death tax. Defeated 7-13.

- Conrad: Tax credit to encourage information technology training. Defeated 9-11.

The Tax Cut, the Surplus, the Public Debt and the President

The Congressional Budget Office (CBO) released its mid-session review on July 21, 1999. CBO's estimates put the Senate's reconciliation legislation into context with both the surplus and the President's budget. The congressional budget resolution and reconciliation tax cut would, according to CBO's latest (July 1999) estimate, result as follows:

- The total budget surplus will measure $1.1 trillion from FYs 2000-2004 and $2.9 trillion from FYs 2000-2009.

- The non-Social Security (on-budget) surplus will measure $294 billion from FYs 2000-2004 and $996 billion from FYs 2000-2009.

- According to the Joint Committee on Taxation (JCT), the Finance-reported reconciliation bill will total $155.5 billion from 1999-2004, and $791.8 billion from 1999-2009.

- The Congressional budget resolution — of which the reconciliation plan is an integral part — would leave the public debt level at $1.58 trillion in 2009.

In contrast, President Clinton's budget (as detailed in OMB's June 6, 1999 Mid-session review) as reestimated by a July 1999 CBO report, would result as follows:

- The public debt level would be left at $1.802 trillion in 2009 — over $200 billion higher than the level left under the Congressional budget resolution and tax cut.

- President Clinton's budget saves just 67 percent of the total surplus — versus 75 percent savings under the Congressional budget resolution and tax cut.

- President Clinton's budget contains $1 trillion in new spending — 20 percent larger than the $792 billion reconciliation tax cut.

- President Clinton's budget spends the Social Security (off-budget surplus) in fiscal years 2000, 2004, and 2005 by a total of $29 billion — in contrast, under the Congressional budget resolution and tax cut, the Social Security trust fund is not raided at all in any year.

FLOOR PROCEDURE

Some Quick Highlights For Floor Consideration of Reconciliation Bills

- The motion to proceed to the consideration of a reconciliation bill is not debatable.
- Per the Congressional Budget Impoundment and Control Act of 1974, as subsequently amended, floor debate on the Senate reconciliation bill totals 20 hours, equally divided between Republicans and Democrats.
- Time spent on quorum calls (unless preceding a vote) is counted against the debate time, but votes are not counted against the time limit.
- There is a two-hour time limit on all amendments offered in the first-degree; and that time must expire, or be yielded back, before a second-degree amendment can be offered to the pending first-degree amendment.
- There is a one-hour time limit on all second-degree amendments.
- Any debatable motions or appeals of the Chair's ruling carry a one-hour time limit.
- Time on all the preceding is equally divided, and is subtracted from the bill. In an ideal world, this would mean that proponents and opponents agree to use the same amount of time on each amendment or motion, up to the maximum allowed. But in the world of U.S. budget process, it also means that if proponents use one hour on a first-degree amendment, but opponents only use 10 minutes, then yield back time, the total time — 70 minutes — is equally divided, and 35 minutes are subtracted from the bill time on each side.
- If neither side yields time (i.e., if no one is conducting any business on the bill, but no quorum call is in progress), the Chair has the right to charge time equally from both sides.

How To Tell If Your Amendment is in Order

Amendments to a reconciliation bill must be germane, otherwise a 60-vote point of order could be raised. Under the precedents of the Senate, germaneness is a more narrow concept than "relevance," which only requires a subject matter relationship. The following types of amendments are per se germane:

- Committee amendments (resulting from a motion to recommit: if the motion is offered with specific instructions, the instructions accompanying the motion must conform to the Budget Act and Byrd rule restrictions);
- Amendments to strike;
- Amendments to change numbers or dates; and
- Non-binding amendments limited to matters within the jurisdiction of the committee of the reported bill; however, all amendments of this nature would violate the Byrd rule and be subject to a 60-vote point of order.

For any amendment that does not fall into one of the categories above, germaneness is determined on a case-by-case basis by the Parliamentarian.

All amendments must be offset (for the first year, sum of first 5 years, and sum of first 10 years), germane, and in compliance with the Byrd rule, in order to avoid a Budget Act point of order. However, motions to strike are always in order.

Employing the Byrd Rule

An amendment to the Budget Impoundment and Control Act enacted in 1985 (this temporary rule was extended and made permanent as Section 313 in 1990) offers some protection to reconciliation bills from the inclusion of "extraneous" material. This rule, named after its primary sponsor, Senator Robert C. Byrd (D-WV), applies the following rules (in addition to the preceding ones pertaining to germaneness) to remove material from a reconciliation bill when it is being considered on the floor. Under Byrd Rule procedures, it also applies to reconciliation amendments and conference reports. The Senate Budget Committee is obliged to report to the Senate a list of extraneous provisions.

If a Byrd Rule point of order against a provision in the bill is sustained, the offending provision is stricken from the bill. A waiver of the Byrd Rule requires 60 votes. Material is considered extraneous if it:

- Doesn't change outlays or revenues (unless it is a term or condition of a provision that does produce such a change);
- Increases the deficit if the committee has failed to meet its instruction;
- Is a provision from a committee which has no jurisdiction over the provision;
- Would produce changes in outlays or revenues which are incidental to the non-budgetary components of the provision;
- Creates a net outlay increase or a revenue decrease in the year following the scoring window (i.e., any year beyond FY 2009); or
- Affects the receipts or outlays of the Social Security trust fund.

ADMINISTRATION POSITION

According to Administration officials, the President will veto the Senate reconciliation bill due to the size of the tax cuts it includes.

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